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NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

02/11/2008

H. Duane Switzer
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114-1190

EXAMINER

RODRIGUEZ, RUTH C

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 02/11/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,739	12/05/2003	Eric G. Hull	427600700087	3999

TITLE OF INVENTION: FITTING FOR ENT TUBING

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	05/12/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 02/11/2008

H. Duane Switzer
 Jones Day
 North Point
 901 Lakeside Avenue
 Cleveland, OH 44114-1190

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1440	\$300	\$0	\$1740	05/12/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
RODRIGUEZ, RUTH C	3677	249-091000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

RODRIGUEZ, RUTH C.

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Cleveland, OH 44114-1190

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 114 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 114 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/729,739

Examiner

RUTH C. RODRIGUEZ

Applicant(s)

HULL ET AL.

Art Unit

3677

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communication filed on 16 January 2008.
2. ☒ The allowed claim(s) is/are 26-29,40 and 41.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 12/3/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Regarding claim 26, Allen discloses a fitting (16,30) comprising a molded plastic body (30) having an inverted generally cup-like configuration (Figs. 1-10 and 13). The body has a body wall (36) forming an internal cavity having a bottom opening. A socket extends through the wall into the cavity (Figs. 1-10 and 13). The socket has a longitudinal socket axis intersecting the bottom opening (Figs. 1-10 and 13). The socket wall has a generally cylindrical entrance portion extending over a portion of the axial length of the socket (Figs. 1-10 and 13). The socket wall has a plurality of circumferentially-spaced resilient fingers (44) extending from the generally cylindrical entrance portion over the remaining length of the socket wall and being inclined inwardly toward the socket axis and having finger inner surfaces that lie on the surface of a cone (Figs. 1-10 and 13). The body wall has a wall internal surface defining the cavity (Figs. 1-10 and 13). Allen fails to disclose an attachment flange extending outwardly from the body wall around the bottom opening with the flange having a plane outer surface and having a plurality of fastener receiving holes therethrough spaced around the opening and at least one rib extending along the wall internal surface and the rib being graspable between pliers jaws at the bottom opening. Although Schamp teaches a fitting (10,15) having a body (10,15) with a peripheral wall (10) and a flange (15) extending outwardly from the body wall around the bottom opening with the flange having a plane outer surface and a plurality of fastener receiving holes (16) therethrough spaced around the opening where the plate allows securing the body to a

wall (Page 1 , Lines 39-50) and it would not have been obvious to one having ordinary skill in the art at the time the invention was made to have an attachment flange having a plurality of fastener receiving holes that extends outwardly from the body wall around the bottom opening as taught by Schamp in the fitting disclosed by Allen, it would not have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have at least one rib extending along the wall internal surface and the rib being graspable between pliers jaws at the bottom opening. Especially since the rib serves for separating the fitting from a concrete mass to thereby separate the end of the tube from the fitting by pulling the rib of the fitting with pliers.

For claim 28, the same reasons for allowance of claim 26 serve for claim 28 since Allen also discloses that the body has a generally frustoconical peripheral wall (36) terminating in an end wall (outer wall opposite to 16) forming an internal cavity having a generally circular bottom opening and the socket and the bottom opening having coincident axes (Figs. 1-10 and 13).

Regarding claim 40, Allen discloses a fitting (16,30) comprises a molded plastic body (30) having an inverted generally cup-like configuration (Figs. 1-10 and 13). The body has a peripheral wall (36) and an end wall (outer wall opposite to 16) forming an internal cavity having a bottom opening and a generally cylindrical socket (44). The socket extends through the endwall into the cavity (Figs. 1-10 and 13). The socket has a socket wall (between end wall and 44) that is surrounded by the cavity and with the peripheral wall in outwardly-spaced relationship to the socket wall (Figs. 1-10 and 13). The socket has a longitudinal socket axis intersecting the bottom opening (Figs. 1-10

and 13). The socket wall has a generally cylindrical entrance portion extending over a portion of the axial length of the socket (Figs. 1-10 and 13). The socket wall has a plurality of circumferentially-spaced resilient fingers (44) extending from the generally cylindrical entrance portion over the remaining length of the socket wall and being inclined inwardly toward the socket axis from the generally cylindrical entrance portion (Figs. 1-10 and 13). The fingers terminal ends are spaced from the bottom opening (Figs. 1-10 and 13). The cavity, the socket and the peripheral wall are configured to provide insertion of an electrical nonmetallic tube into and through the socket past the finger terminal ends into engagement with a support surface that covers the bottom opening when the plane outer surface of the attachment flange rests against the support surface (Figs. 1-10 and 13). The body peripheral wall and endwall are continuous and free of openings therethrough around the socket and capable of precluding entry of poured concrete into the socket and the cavity through the body peripheral wall and the endwall (Figs. 1-10 and 13). The fingers are configured to releasably hold an end portion of an electrical nonmetallic tube in the socket against unintentional displacement therefrom while permitting separation of the socket and the end portion of the electric nonmetallic tube (when a small enough tube is used or by forceful separation) Allen fails to disclose a flange extending outwardly from the peripheral wall around a bottom opening where the flange has a plane outer surface and having a plurality of fastener receiving holes therethrough spaced around the opening where the plane outer of the attachment flange being at one terminal end of the fitting and the end wall is at a generally opposite end of the fitting and the plane outer surface of the attachment flange

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is positionable against a plane support surface for attaching the fitting to the support surface with the bottom opening closed by the support surface and that the socket axis extends at an angle of 45 degrees to the plane of the flange plane outer surface.

Although Schamp teaches a fitting (10,15) having a body (10,15) with a peripheral wall (10) and an attachment flange (15) extending outwardly from the peripheral wall around a bottom opening (Figs. 1-3 and 5) where the attachment flange has a plane outer surface and having a plurality of fastener receiving holes (16) therethrough spaced around the opening (Figs. 1-3 and 5), the plane outer of the attachment flange is at one terminal end of the fitting and the end wall is at a generally opposite end of the fitting (Figs. 1-3 and 5) and the plane outer surface of the attachment flange is positionable against a plane support surface and it would have been obvious to one having ordinary skill in the art at the time the invention was made to have an attachment flange extending outwardly from the peripheral wall around a bottom opening where the attachment flange has a plane outer surface and having a plurality of fastener receiving holes (16) therethrough spaced around the opening, the plane outer of the attachment flange is at one terminal end of the fitting and the end wall is at a generally opposite end of the fitting and the plane outer surface of the attachment flange is positionable against a plane support surface as taught by Schamp in the fitting disclosed by Allen, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the socket axis extending at an angle of 45 degrees to the plane of the flange plane outer surface so that the tube can be placed at a forty five degrees with respect to the plane support surface since Allen only discloses the use of a fitting whose

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socket axis extends at an angle of 90 degrees to plane of the flange plane outer surface.

For claim 41, Allen discloses a fitting (16,30) comprises a molded plastic body (30) having an inverted generally cup-like configuration (Figs. 1-10 and 13). The body has a body wall (36) forming an internal cavity with a bottom opening. A socket extends through the body wall into the cavity (Figs. 1-10 and 13). The socket has a longitudinal socket axis intersecting the bottom opening (Figs. 1-10 and 13). The socket has a plurality of circumferentially-spaced resilient fingers (44) extending into the cavity and having finger terminal ends spaced from the bottom opening (Figs. 1-10 and 13). The body wall is continuous and free of openings therethrough around the socket, including around the socket finger and capable of precluding entry of poured concrete into the socket and the cavity through the body wall (Figs. 1-10 and 13). The cavity, the socket and the body wall are configured to provide insertion of an electrical nonmetallic tube into and through the socket past the finger terminal ends into engagement with a support surface that covers the bottom opening when the plane outer surface of the attachment flange rests against the support surface (Figs. 1-10 and 13). The fingers are configured to releasably hold an end portion of an electrical nonmetallic tube in the socket against unintentional displacement therefrom while permitting separation of the socket and the end portion of the electric nonmetallic tube (when a small enough tube is used or by forceful separation) Allen fails to disclose an attachment flange extending outwardly from the body wall around a bottom opening where the flange has a plane outer surface that defines a terminal end of the fitting and the plane outer surface of the

attachment flange is securable against a support surface with the socket opening outwardly away from the support surface and the body wall being configured with at least one gripable projection that is accessible through the bottom opening and is gripable in pliers jaws for separating the fitting from a concrete mass. Although Schamp teaches a fitting (10,15) having a body (10,15) with a body wall (10) and an attachment flange (15) extending outwardly from the body wall around a bottom opening (Figs. 1-3 and 5) where the flange has a plane outer surface that defines a terminal end of the fitting and the plane outer surface of the attachment flange is securable against a support surface with an opening outwardly away from the support surface (Figs. 1-3 and 5) and it would have been obvious to one having ordinary skill in the art at the time the invention was made to have an attachment flange having a plurality of fastener receiving holes that extends outwardly from the body wall around the bottom opening with a plane outer surface that is at one terminal end of the fitting and the end wall is at generally opposite terminal end of the fitting so that the plane outer surface of the attachment flange is positioned against a plane support surface as taught by Schamp in the fitting disclosed by Allen, but it would not have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have at least one gripable projection that is accessible through the opening and is gripable in pliers jaws for separating the fitting from a concrete mass. Especially since Allen fails to provide any projection accessible through the opening and that such a projection serves for separating the fitting from a concrete mass to thereby separate the end of the tube from the fitting by pulling the rib of the fitting with pliers.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RUTH C. RODRIGUEZ whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on (571) 272-6987. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RCR/
Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
February 11, 2008

/Robert J. Sandy/
Acting SPE of Art Unit 3677